

## Title 23: TRANSPORTATION

### Chapter 412: WATERBORNE TRANSPORTATION

#### Subchapter 2: MAINE PORT AUTHORITY

#### **§4420. PURPOSE**

The Maine Port Authority, as established by Title 5, section 12004-F, subsection 8, is a body both corporate and politic in the State established for the general purpose of acquiring, financing, constructing and operating any kind of port terminal facility and railroad facility within the State with all the rights, privileges and power necessary. Oil pipelines and other oil off-loading facilities are limited to sites in Portland and Searsport harbors. [1999, c. 753, §4 (AMD).]

It is declared that the purposes of this chapter are public and that the authority is performing a governmental function in carrying out this chapter. [1997, c. 395, Pt. J, §1 (NEW).]

##### SECTION HISTORY

1981, c. 456, §A88 (NEW). 1983, c. 812, §146 (AMD). 1989, c. 503, §B103 (AMD). 1993, c. 649, §J1 (AMD). 1997, c. 395, §J1 (AMD). 1997, c. 643, §AA1 (AMD). 1999, c. 753, §4 (AMD).

#### **§4421. DIRECTORS; APPOINTMENT; PRESIDENT; VACANCY**

The Maine Port Authority consists of a board of directors, referred to in this section as "the board." The board consists of 7 directors who must be broadly representative of the State and must have a background in international trade, marine transportation, finance or economic development. Five directors are appointed by the Governor, each to serve for 4 years. The Commissioner of Transportation serves as an ex officio member of the board and as chair of the board and president. The president of the Maine International Trade Center serves as an ex officio member of the board. The directors shall elect a vice-chair, treasurer and other officers as the board determines necessary. A vacancy must be filled for an unexpired term by the Governor. [2007, c. 134, §4 (RPR).]

**1. Meetings of directors; compensation.** All the powers of the Maine Port Authority may be exercised by the board in lawful meeting and a majority of the directors is necessary for a quorum. Regular meetings of the board may be established by bylaw, and notice need not be given to the directors of a regular meeting. Each director, other than those who serve ex officio, is entitled to compensation in the amount of \$100 per board meeting plus expenses, but only if the compensation is provided solely from the revenues of the Maine Port Authority.

[ 2007, c. 134, §4 (RPR) .]

**2. Actions at law or in equity.** Actions at law or in equity in the courts of this State or before the Public Utilities Commission or Workers' Compensation Board may be brought by or against the Maine Port Authority as if it were a private corporation, except that its property may not be attached, trustee or sequestered, but, if a judgment recovered against it is not paid within 30 days, its personal property may be seized on execution.

[ 2007, c. 134, §4 (RPR) .]

##### SECTION HISTORY

1981, c. 456, §A88 (NEW). 1983, c. 812, §147 (AMD). 2007, c. 134, §4 (RPR) .

## §4422. AGREEMENTS

The Maine Port Authority and the Department of Transportation may enter into such agreements as the directors and commissioner determine to be in the best interests of the State for the department to acquire, construct, maintain and operate any or all facilities funded from bonds issued under section 4423. The department may not operate a railroad that is constructed or acquired under this chapter. Any agreements must set forth the terms and conditions of the operation and be subject to all the terms and conditions of any trust indenture and covenants relating to revenue bonds. The Maine Port Authority or the department may establish, own, operate and maintain such navigational aids in coastal waters adjacent to the shores and harbors of the State as the directors or commissioner determine essential for safety. Any such navigational aids must conform to and be consistent with any and all federal regulation. [1993, c. 649, Pt. J, §2 (AMD) .]

### SECTION HISTORY

1981, c. 456, §A88 (NEW) . 1993, c. 649, §J2 (AMD) .

## §4423. BONDS

**1. Authorization.** The Maine Port Authority may provide by resolution from time to time for the issuance of bonds for the purpose of funding the establishment, acquisition or effectuation of port terminal facilities, railroad facilities and things incidental thereto, for construction of proposed facilities and improvement of existing or acquired facilities and for the fulfillment of other undertakings that it may assume. The bonds of the Maine Port Authority do not constitute a debt of the State, or of any agency or political subdivision thereof, but are payable solely from the revenue of the authority, and neither the faith nor credit nor taxing power of the State, or any political subdivision thereof, is pledged to payment of the bonds. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this subchapter are fully negotiable. In case any director whose signature appears on the bond or coupons ceases to be a director before the delivery of those bonds, that signature is valid and sufficient for all purposes as if that director had remained a director until delivery.

[ 1993, c. 649, Pt. J, §3 (AMD) .]

**2. Resolution; prospective issues.** The authority may by resolution authorizing prospective issues provide:

- A. The manner of executing the bonds and coupons; [1981, c. 456, Pt. A, §88 (NEW) .]
- B. The form and denomination thereof; [1981, c. 456, Pt. A, §88 (NEW) .]
- C. Maturity dates; [1981, c. 456, Pt. A, §88 (NEW) .]
- D. Interest rates thereon; [1981, c. 456, Pt. A, §88 (NEW) .]
- E. For redemption prior to maturity and the premium payable therefor; [1981, c. 456, Pt. A, §88 (NEW) .]
- F. The place or places for the payment of interest and principal; [1981, c. 456, Pt. A, §88 (NEW) .]
- G. For registration if the authority deems it to be desirable; [1981, c. 456, Pt. A, §88 (NEW) .]
- H. For the pledge of all or any of the revenue for securing payment; [1981, c. 456, Pt. A, §88 (NEW) .]
- I. For the replacement of lost, destroyed or mutilated bonds; [1981, c. 456, Pt. A, §88 (NEW) .]

J. For the setting aside of reserve and sinking funds and the regulations and disposition thereof; [1981, c. 456, Pt. A, §88 (NEW).]

K. For limitation on the issuance of additional bonds; [1981, c. 456, Pt. A, §88 (NEW).]

L. For the procedure, if any, by which the contract with the bondholder may be abrogated or amended; [1981, c. 456, Pt. A, §88 (NEW).]

M. For the manner of sale and purchase thereof; [1981, c. 456, Pt. A, §88 (NEW).]

N. For covenants against pledging of any of the revenue of the Maine Port Authority; [1981, c. 456, Pt. A, §88 (NEW).]

O. For covenants fixing and establishing rates and charges for use of its facilities and services made available so as to provide at all times funds which will be sufficient to pay all costs of operation and maintenance, meet and pay the principal and interest of all bonds as they severally become due and payable; for the creating of such revenues for the principal and interest of all bonds and for the meeting of contingencies and the operation and maintenance of its facilities as the directors determine; [1981, c. 456, Pt. A, §88 (NEW).]

P. For such other covenants as to rates and charges as the directors determine; [1981, c. 456, Pt. A, §88 (NEW).]

Q. For covenants as to the rights, liability, powers and duties arising upon the breach by the Maine Port Authority of any covenant, condition or obligation; [1981, c. 456, Pt. A, §88 (NEW).]

R. For covenants as to the bonds to be issued, as to the issuance of those bonds in escrow and otherwise and as to the use and disposition of the proceeds; [1981, c. 456, Pt. A, §88 (NEW).]

S. For covenants as to the use of its facilities and their maintenance and replacement, and the insurance to be carried on them, and the use and disposition of insurance money; [1981, c. 456, Pt. A, §88 (NEW).]

T. For the issuance of such bonds in series; [1981, c. 456, Pt. A, §88 (NEW).]

U. For the performance of any and all acts as may be in the discretion of the directors necessary, convenient or desirable to secure the bonds, or will tend to make the bonds more marketable; and [1981, c. 456, Pt. A, §88 (NEW).]

V. To issue bonds on terms and conditions so as to effectuate the purpose of this subchapter. [1981, c. 456, Pt. A, §88 (NEW).]

[ 1981, c. 456, Pt. A, §88 (NEW) .]

**3. Money received.** All money received from any bonds issued must be applied solely for the establishment, acquisition or effectuation of port terminal facilities, railroad facilities and things incidental thereto, for the construction of proposed facilities, improvement of existing or acquired facilities and the fulfillment of other undertakings that are within the power of the authority. There is created a lien upon the money until so applied in favor of the bondholders or any trustee as may be provided in respect of the bonds.

[ 1993, c. 649, Pt. J, §3 (AMD) .]

**4. Trust indenture.** In the discretion of the directors, the bonds may be secured by a trust indenture by and between the Maine Port Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company, located either within or outside the State. Such a trust indenture may pledge or assign the revenues of the Maine Port Authority or any part of it. Any indenture may set forth the rights and remedies of the bondholders and the trustee, and may restrict the individual right of action of bondholders, and may contain such other provisions as the directors may deem reasonable and proper for the security of bondholders. Expenses incurred in carrying out any trust indenture may be treated as a part of maintenance.

[ 1981, c. 456, Pt. A, §88 (NEW) .]

**5. Rights of bondholders.** Provisions may be made for protecting and enforcing the rights and remedies of the bondholders, including covenants as to acquisition of property, construction, maintenance, operation and repair, insurance and the custody, security and application of all moneys.

[ 1981, c. 456, Pt. A, §88 (NEW) .]

**6. Depositories.** Any trust company or bank having the powers of a trust company and located either within or outside the State may act as depositories of the proceeds of the bonds and revenue and may furnish such indemnity or pledge such securities as may be required by the Maine Port Authority.

[ 1981, c. 456, Pt. A, §88 (NEW) .]

**7. Tax free.** The purposes of this subchapter being public and for the benefit of the people of the State, the Maine Port Authority bonds shall at all times be free from taxation by the State.

[ 1981, c. 456, Pt. A, §88 (NEW) .]

**8. Revenue refunding bonds.** The Maine Port Authority may issue revenue refunding bonds for the purpose of refunding the revenue bonds issued under this subchapter. The issuance of any refunding bonds shall be the same as provided for in this subchapter relating to revenue bonds.

[ 1981, c. 456, Pt. A, §88 (NEW) .]

**9. Default.** In the event of default on the bonds and in the event the default continues for a period of 3 months, action may be brought to enforce the rights of the bondholders by insuring that the operation by the directors be in conformity with the covenants of the bonds or indenture.

[ 1981, c. 456, Pt. A, §88 (NEW) .]

#### SECTION HISTORY

1981, c. 456, §A88 (NEW). 1993, c. 649, §J3 (AMD).

## §4424. PROPERTY OF THE STATE

All real and personal property owned by and in the name of the Maine Port Authority shall be considered as property of the State and entitled to the privileges and exemptions of property of the State, except insofar as waived by the duly authorized contract, or other written instrument of the Maine Port Authority or by this subchapter. The Maine Port Authority and the Department of Transportation shall agree upon and from time to time review the preferred status of property held or controlled by them and necessary to either body's performing its statutory duty and shall arrange to sell, exchange, give or otherwise transfer title or possession of various properties between themselves consistent with sound business management and as may serve the best interest of the State in their opinion; and shall be authorized to execute and record a deed or lease between them to effectuate the transfer. The Governor may grant to the Maine Port Authority such rights in submerged land owned by the State and located within harbor limits as may be necessary for the Maine Port Authority to fulfill its powers, duties and obligations. [1981, c. 456, Pt. A, §88 (NEW) .]

#### SECTION HISTORY

1981, c. 456, §A88 (NEW) .

## §4425. ACQUISITION OF LAND

Land required for improvement to existing facilities or construction of new facilities undertaken by the Maine Port Authority or in cooperation with the Department of Transportation may be acquired for these purposes in the same manner as provided in chapter 3, subchapter III. [1993, c. 649, Pt. J, §4 (AMD) .]

## SECTION HISTORY

1981, c. 456, §A88 (NEW). 1993, c. 649, §J4 (AMD).

**§4426. CONFLICT OF INTEREST**

No member, officer or employee of the Maine Port Authority may acquire any interest, direct or indirect, in any contract or proposed contract of the authority nor may any member, officer or employee participate in any decision on any contract entered into by the authority if he has any interest, direct or indirect, in any firm, partnership, corporation or association which will be party to such contract or financially involved in any transaction with the authority, except this prohibition shall not be applicable to the acquisition of any interest in notes or bonds of the authority issued in connection with any contracts or agreements of the authority or to the execution of agreements by banking institutions for the deposit or handling of authority funds in connection with any contract or to act as trustee under any trust indenture or to utility services, the rates for which are fixed or controlled by a governmental agency. [1981, c. 456, Pt. A, §88 (NEW).]

## SECTION HISTORY

1981, c. 456, §A88 (NEW).

**§4427. ENVIRONMENTAL LAWS**

Facilities acquired, constructed, operated or maintained under this subchapter, and land upon which the facilities are located is subject to such of the environmental laws of the State as would be applicable to private enterprise were the facilities owned or operated by the private sector and further providing that the Department of Transportation and the Maine Port Authority, its successors or assigns, are subject to Title 38, chapter 3, subchapter II-A. [1981, c. 456, Pt. A, §88 (NEW).]

## SECTION HISTORY

1981, c. 456, §A88 (NEW).

**§4428. STATEWIDE TRANSPORTATION INFRASTRUCTURE STRATEGY**

Notwithstanding any other provision of this subchapter, funds repaid to the Maine Port Authority as a result of state investments or loans for the redevelopment of Mack Point must be used by the Maine Port Authority, in cooperation with the Department of Transportation, to undertake projects that link the State's ports and rail systems with the transportation infrastructure throughout the State. [1997, Pt. AA, §2 (NEW).]

## SECTION HISTORY

1997, c. 643, §AA2 (NEW).

**§4429. MARKETING PROGRAM**

The Maine Port Terminal Facilities Marketing Program is established to encourage and promote business opportunities for Eastport's port terminal facility. The Maine Port Authority shall develop and implement the marketing program. The authority may enter into agreements or cooperative arrangements with any person or entity for the purpose of increasing the use of Eastport's port terminal facility. The authority may receive, administer and disburse funds, either independently or in conjunction with state funds allocated for the purpose, provided that funds so contributed must be used only for the purpose of marketing and economic development programs. [2001, c. 439, Pt. LLLL, §1 (NEW).]

## SECTION HISTORY

2001, c. 439, §LLLL1 (NEW).

## §4430. EMPLOYEES

**1. Employees.** The board of directors of the Maine Port Authority may hire employees as the board considers necessary to fulfill its purposes. The board may also contract for the services of assistants, attorneys, experts, inspectors and consultants as the board considers necessary or desirable for its purposes.

[ 2007, c. 134, §5 (NEW) .]

**2. Retirement.** Employees of the Maine Port Authority are subject to the state retirement system provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter 2.

The retirement accounts of state employees transferred to the authority in its capacity as an independent agency must remain in the state regular plan. New employees of the authority shall also become members of the Maine State Retirement System under the state regular plan. The authority shall make employer retirement plan contributions at the state regular plan rate. Employee retirement plan contributions are at the state regular plan rate.

Authority employees are entitled to receive the same retirement health benefits as state employees.

[ 2007, c. 134, §5 (NEW) .]

**3. Fringe benefits.** The accrued fringe benefits of state employees transferred to the Maine Port Authority in its capacity as an independent agency, including vacation and sick leave, health and life insurance and retirement, remain with the transferred employee.

[ 2007, c. 134, §5 (NEW) .]

### SECTION HISTORY

2007, c. 134, §5 (NEW) .

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Regular Session of the 126th Maine Legislature and is current through August 1, 2014. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.
--